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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 LOUIS JAMES THIBODEAUX,

11 Plaintiff,

12 v.

13 DANIEL WHITE, et al.,

14 Defendants.

CASE NO. 3:19-CV-05134-RBL-DWC

ORDER DENYING PLAINTIFF'S  
APPLICATION FOR COURT-  
APPOINTED COUNSEL

15 The District Court has referred this 42 U.S.C. § 1983 action to United States Magistrate  
16 Judge David W. Christel. Currently pending in this action is Plaintiff Louis James Thibodeaux's  
17 Motion for Order Appointing Counsel. Dkt. 8.

18 No constitutional right to appointed counsel exists in a § 1983 action. *Storseth v.*  
19 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S.*  
20 *Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is  
21 discretionary, not mandatory”). However, in “exceptional circumstances,” a district court may  
22 appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28  
23 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other*  
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1 grounds, 154 F.3d 952 (9th Cir. 1998). To decide whether exceptional circumstances exist, the  
2 Court must evaluate both “the likelihood of success on the merits [and] the ability of the  
3 [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved.”  
4 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718  
5 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing he has an insufficient grasp  
6 of his case or the legal issues involved and an inadequate ability to articulate the factual basis of  
7 his claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

8 Plaintiff requests Court-appointed counsel because he is disabled and incarcerated in a  
9 correctional facility. Dkt. 8. Plaintiff has not shown, nor does the Court find, this case involves  
10 complex facts or law. Plaintiff has also not shown an inability to articulate the factual basis of his  
11 claims in a fashion understandable to the Court, nor has he shown he is likely to succeed on the  
12 merits of this case. Additionally, “Plaintiff’s incarceration and limited access to legal materials  
13 are not exceptional factors constituting exceptional circumstances that warrant the appointment  
14 of counsel. Rather, they are the type of difficulties encountered by many *pro se* litigants.”  
15 *Dancer v. Jeske*, 2009 WL 1110432, \*1 (W.D. Wash. Apr. 24, 2009). Accordingly, Plaintiff’s  
16 Motion (Dkt. 8) is denied without prejudice.

17 Dated this 5th day of April, 2019.

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20 David W. Christel  
21 United States Magistrate Judge  
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